

HOUSE BILL No. 2243

AN ACT concerning retirement and pensions; relating to the Kansas public employees retirement system and systems thereunder; adjusting the frequency of the actuarial experience study; providing a moratorium on death and long-term disability employer contributions to the group insurance reserve fund; allowing the extension of certain initial DROP periods under the Kansas deferred retirement option program act; conforming certain KPERS provisions with the federal CARES act; amending K.S.A. 74-4908, 74-4908a, 74-4927, 74-4986n and 74-49,123 and K.S.A. 2020 Supp. 74-4986l and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-4908 is hereby amended to read as follows: 74-4908. (1) The board shall appoint an executive director and shall establish the compensation therefor. Subject to the direction of the board, the executive director shall be the managing officer of the system and ~~as such~~ shall have charge of the office, records and supervision and direction of the employees of the system. The executive director shall be in the unclassified service under the Kansas civil service act.

(2) The executive director shall recommend to the board the administrative organization, the number and qualifications of employees necessary to carry out the intent of this act and the directions of the board. Upon approval of the board, the executive director is authorized to employ such persons in accordance with the Kansas civil service act.

(3) The board of trustees shall select and employ or retain a qualified actuary who shall serve at its pleasure as its technical advisor on matters regarding operation of the system. The actuary shall:

(a) Make an annual valuation of the liabilities and reserves of the system, and a determination of the contributions required by the system to discharge its liabilities and administrative costs under this act, and recommend to the board rates of employer contributions required to establish and maintain the system on an actuarial reserve basis. Such recommended employer contributions shall not be based on any other purpose outside of the needs of the system as prescribed by this subsection;

(b) ~~As soon after the effective date as practicable and once every three years thereafter, commencing from the most recent actuarial experience study completed prior to July 1, 2021, every four years, or more or less frequently if deemed necessary by the board in the exercise of the board's fiduciary duty to act in the best interest of the Kansas public employees retirement fund,~~ make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover ~~and interest~~, member compensation, inflation and investment returns, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation. *Any adjustment by the board to the frequency of such investigation shall be not more frequent than once every three years and not less frequent than once every five years;*

(c) cooperate with and provide any assistance to the actuary, the legislative coordinating council and the joint committee on pensions, investments and benefits related to the independent actuarial audit and evaluation as provided in K.S.A. 74-4908a, and amendments thereto; *and*

(d) perform such other duties as may be assigned by the board.

(4) The attorney general of the state shall furnish such legal services as may be necessary upon receipt of a request from the board, except that legal services may be furnished by other counsel as the board in its discretion deems necessary and prudent.

(5) The board shall employ or retain qualified investment counsel or counselors or may negotiate with a trust company to assist and advise in the judicious investment of funds as herein provided.

(6) Subject to limitations imposed pursuant to this subsection and otherwise provided by law, the board may appoint such officers and employees necessary to advise and assist the board in the performance of powers, duties and functions relating to the management and

investment of the fund and in such other matters as may be directed by the board. Such appointed officers and employees shall be in the unclassified service under the Kansas civil service act. The provisions of this subsection shall not affect the classified status of any employee in the classified service under the Kansas civil service act who is employed on the date immediately preceding July 1, 2014. The board is authorized to assign any new or vacant position created by the system on or after the effective date of this act to the classified or unclassified service under the Kansas civil service act. The compensation of such appointed officers and employees in the unclassified service under the Kansas civil service act shall be established by the board.

(7) The board may establish a program for the paying of bonus awards to unclassified officers and employees pursuant to procedures established by the board.

Sec. 2. K.S.A. 74-4908a is hereby amended to read as follows: 74-4908a. Commencing in the fiscal year that commenced in calendar year 1995 and at least once every six years thereafter, there shall be an independent actuarial audit and evaluation of the actuarial services and valuations provided to the board of trustees of the Kansas public employees retirement system pursuant to ~~subsection (3) of K.S.A. 74-4908(3)~~, and amendments thereto. Such independent audit and evaluation shall be conducted by an actuary other than the actuary employed or retained by the board pursuant to ~~subsection (3) of K.S.A. 74-4908(3)~~, and amendments thereto. Such independent audit and evaluation shall include a review of all assumptions, evaluations and methodology utilized by the actuary employed or retained by the board as provided in ~~subsection (3) of K.S.A. 74-4908(3)~~, and amendments thereto, and shall express an opinion regarding the reasonableness or accuracy of the actuarial assumptions, actuarial cost methods, valuation results and statutory contribution rates and shall include certifications that the actuarial valuation report was performed by a qualified actuary, that the valuation was prepared in accordance with principles of practices prescribed by the actuarial standards board and that the actuarial calculations were performed by qualified actuaries in accordance with accepted actuarial procedures and that such actuary conducting the independent actuarial audit and evaluation shall perform test work on the data used by the system for the annual *valuation* and ~~three-year performance~~ *actuarial experience* review required by K.S.A. 74-4908, and amendments thereto. The actuary conducting the independent actuarial audit and evaluation as required by this section shall be employed by the legislative coordinating council as provided in K.S.A. 46-1204, and amendments thereto.

Sec. 3. K.S.A. 74-4927 is hereby amended to read as follows: 74-4927. (1) The board may establish a plan of death and long-term disability benefits to be paid to the members of the retirement system as provided by this section. The long-term disability benefit shall be payable in accordance with the terms of such plan as established by the board, except that for any member who is disabled prior to the effective date of this act, the annual disability benefit amount shall be an amount equal to $66\frac{2}{3}\%$ of the member's annual rate of compensation on the date such disability commenced. Such plan shall provide that:

(A) The right to receive such long-term disability benefit shall cease: (i) For a member who becomes eligible for such benefit before attaining age 60, upon the date that such member attains age 65 or the date of such member's retirement, whichever first occurs; and (ii) for a member who becomes eligible for such benefit at or after attaining age 60, the date that such member has received such benefit for a period of five years, or upon the date of such member's retirement, whichever first occurs.

(B) Long-term disability benefit payments shall be in lieu of any accidental total disability benefit that a member may be eligible to receive under K.S.A. 74-4916(3), and amendments thereto. The member must make an initial application for social security disability benefits and, if denied such benefits, the member must pursue and

exhaust all administrative remedies of the social security administration ~~which~~ *that* include, but are not limited to, reconsideration and hearings. Such plan may provide that any amount ~~which~~ *that* a member receives as a social security benefit or a disability benefit or compensation from any source by reason of any employment including, but not limited to, workers compensation benefits may be deducted from the amount of long-term disability benefit payments under such plan. However, in no event shall the amount of long-term disability benefit payments under such plan be reduced by any amounts a member receives as a supplemental disability benefit or compensation from any source by reason of the member's employment, provided such supplemental disability benefit or compensation is based solely upon the portion of the member's monthly compensation that exceeds the maximum monthly compensation taken into account under such plan. As used in this paragraph, "maximum monthly compensation" means the dollar amount that results from dividing the maximum monthly disability benefit payable under such plan by the percentage of compensation that is used to calculate disability benefit payments under such plan. During the period in which such member is pursuing such administrative remedies prior to a final decision of the social security administration, social security disability benefits may be estimated and may be deducted from the amount of long-term disability benefit payments under such plan. If the social security benefit, workers compensation benefit, other income or wages or other disability benefit by reason of employment other than a supplemental benefit based solely on compensation in excess of the maximum monthly compensation taken into account under such plan, or any part thereof, is paid in a lump-sum, the amount of the reduction shall be calculated on a monthly basis over the period of time for which the lump-sum is given. As used in this section, "workers compensation benefits" means the total award of disability benefit payments under the workers compensation act notwithstanding any payment of attorney fees from such benefits as provided in the workers compensation act.

(C) The plan may include other provisions relating to: Qualifications for benefits; schedules and graduation of benefits; limitations of eligibility for benefits by reason of termination of employment or membership; conversion privileges; limitations of eligibility for benefits by reason of leaves of absence, military service or other interruptions in service; limitations on the condition of long-term disability benefit payment by reason of improved health; requirements for medical examinations or reports; or any other reasonable provisions as established by rule and regulation of uniform application adopted by the board.

(D) Any visually impaired person who is in training at and employed by a sheltered workshop for the blind operated by the secretary for children and families and who would otherwise be eligible for the long-term disability benefit as described in this section shall not be eligible to receive such benefit due to visual impairment as such impairment shall be determined to be a preexisting condition.

(2) (A) In the event that a member becomes eligible for a long-term disability benefit under the plan authorized by this section such member shall be given participating service credit for the entire period of such disability. Such member's final average salary shall be computed in accordance with K.S.A. 74-4902(17), and amendments thereto, except that the years of participating service used in such computation shall be the years of salaried participating service.

(B) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding retirement, such member's final average salary shall be adjusted upon retirement by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1998, such member's final average salary shall be adjusted upon retirement by an amount equal to the lesser of:

(i) The percentage increase in the consumer price index for all urban

consumers as published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) four percent per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of retirement, for each year of disability after July 1, 1998.

(C) In the event that a member eligible for a long-term disability benefit under the plan authorized by this section shall be disabled for a period of five years or more immediately preceding death, such member's current annual rate shall be adjusted by the actuarial salary assumption rates in existence during such period of disability. Effective July 1, 1998, such member's current annual rate shall be adjusted upon death by an amount equal to the lesser of: (i) The percentage increase in the consumer price index for all urban consumers published by the bureau of labor statistics of the United States department of labor minus 1%; or (ii) ~~four percent~~ 4% per annum, measured from the member's last day on the payroll to the month that is two months prior to the month of death, for each year of disability after July 1, 1998.

(3) (A) To carry out the legislative intent to provide, within the funds made available therefor, the broadest possible coverage for members who are in active employment or involuntarily absent from such active employment, the plan of death and long-term disability benefits shall be subject to adjustment from time to time by the board within the limitations of this section. The plan may include terms and provisions ~~which~~ that are consistent with the terms and provisions of group life and long-term disability policies usually issued to those employers who employ a large number of employees. The board shall have the authority to establish and adjust from time to time the procedures for financing and administering the plan of death and long-term disability benefits authorized by this section. Either the insured death benefit or the insured disability benefit or both such benefits may be financed directly by the system or by one or more insurance companies authorized and licensed to transact group life and group accident and health insurance in this state.

(B) The board may contract with one or more insurance companies, which are authorized and licensed to transact group life and group accident and health insurance in Kansas, to underwrite or to administer or to both underwrite and administer either the insured death benefit or the long-term disability benefit or both such benefits. Each such contract with an insurance company under this subsection shall be entered into on the basis of competitive bids solicited and administered by the board. Such competitive bids shall be based on specifications prepared by the board.

(i) In the event the board purchases one or more policies of group insurance from such company or companies to provide either the insured death benefit or the long-term disability benefit or both such benefits, the board shall have the authority to subsequently cancel one or more of such policies and, notwithstanding any other provision of law, to release each company ~~which~~ that issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund.

(ii) In addition, the board shall have the authority to cancel any policy or policies of group life and long-term disability insurance in existence on the effective date of this act and, notwithstanding any other provision of law, to release each company ~~which~~ that issued any such canceled policy from any liability for future benefits under any such policy and to have the reserves established by such company under any such canceled policy returned to the system for deposit in the group insurance reserve of the fund. Notwithstanding any other provision of law, no premium tax shall be due or payable by any such company or companies on any such policy or policies purchased by the board nor shall any brokerage fees or commissions be paid thereon.

(4) (A) There is hereby created in the state treasury the group

insurance reserve fund. Investment income of the fund shall be added or credited to the fund as provided by law. The cost of the plan of death and long-term disability benefits shall be paid from the group insurance reserve fund, which shall be administered by the board. Each participating employer shall appropriate and pay to the system in such manner as the board shall prescribe in addition to the employee and employer retirement contributions an amount equal to 1.0% of the amount of compensation on which the members' contributions to the Kansas public employees retirement system are based for deposit in the group insurance reserve fund. Notwithstanding the provisions of this subsection, no participating employer other than the state of Kansas shall appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on ~~April 1, 2016~~ *July 1, 2021*, and ending on June 30, ~~2017~~ *2022*. Notwithstanding the provisions of this subsection, the state of Kansas shall not appropriate and pay to the system any amount provided for by this subsection for deposit in the group insurance reserve fund for the period commencing on ~~March 25, 2016~~ *July 1, 2020*, and ending on June 30, ~~2017~~ *2021*.

(B) The director of the budget and the governor shall include in the budget and in the budget request for appropriations for personal services a sum to pay the state's contribution to the group insurance reserve fund as provided by this section and shall present the same to the legislature for allowances and appropriation.

(C) The provisions of K.S.A. 74-4920(4), and amendments thereto, shall apply for the purpose of providing the funds to make the contributions to be deposited to the group insurance reserve fund.

(D) Any dividend or retrospective rate credit allowed by an insurance company or companies shall be credited to the group insurance reserve fund and the board may take such amounts into consideration in determining the amounts of the benefits under the plan authorized by this section.

(5) The death benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as insured death benefit. The long-term disability benefit provided under the plan of death and long-term disability benefits authorized by this section shall be known and referred to as long-term disability benefit.

(6) The board is hereby authorized to establish an optional death benefit plan for employees and spouses and dependents of employees. Except as provided in subsection (7), such optional death benefit plan shall be made available to all employees who are covered or may hereafter become covered by the plan of death and long-term disability benefits authorized by this section. The cost of the optional death benefit plan shall be paid by the applicant either by means of a system of payroll deductions or direct payment to the board. The board shall have the authority and discretion to establish such terms, conditions, specifications and coverages as it may deem to be in the best interest of the state of Kansas and its employees ~~which~~ *that* should include term death benefits for the person's period of active state employment regardless of age, but in no case, shall the maximum allowable coverage be less than \$200,000. The cost of the optional death benefit plan shall not be established on such a basis as to unreasonably discriminate against any particular age group. The board shall have full administrative responsibility, discretion and authority to establish and continue such optional death benefit plan and the director of accounts and reports of the department of administration shall when requested by the board and from funds appropriated or available for such purpose establish a system to make periodic deductions from state payrolls to cover the cost of the optional death benefit plan coverage under the provisions of this subsection ~~(6)~~ and shall remit all deductions together with appropriate accounting reports to the system. There is hereby created in the state treasury the optional death benefit plan reserve fund. Investment income of the fund shall be added or credited to the

fund as provided by law. All funds received by the board, whether in the form of direct payments, payroll deductions or otherwise, shall be accounted for separately from all other funds of the retirement system and shall be paid into the optional death benefit plan reserve fund, from which the board is authorized to make the appropriate payments and to pay the ongoing costs of administration of such optional death benefit plan as may be incurred in carrying out the provisions of this subsection ~~(6)~~.

(7) Any employer other than the state of Kansas ~~which~~ *that* is currently a participating employer of the Kansas public employees retirement system or is in the process of affiliating with the Kansas public employees retirement system may also elect to affiliate for the purposes of subsection (6). All such employers shall make application for affiliation with such system, to be effective on January 1 or July 1 next following application.

(8) For purposes of the death benefit provided under the plan of death and long-term disability benefits authorized by this section and the optional death benefit plan authorized by subsection (6), commencing on the effective date of this act, in the case of medical or financial hardship of the member as determined by the executive director, or otherwise commencing January 1, 2005, the member may name a beneficiary or beneficiaries other than the beneficiary or beneficiaries named by the member to receive other benefits as provided by the provisions of K.S.A. 74-4901 et seq., and amendments thereto.

Sec. 4. K.S.A. 2020 Supp. 74-4986l is hereby amended to read as follows: 74-4986l. (a) As used in this act, unless otherwise provided or the context otherwise requires:

(1) "Act" means the Kansas deferred retirement option program act;

(2) "board" means the board of trustees of the Kansas public employees retirement system;

(3) "DROP" means the deferred retirement option program established by K.S.A. 74-4986m, and amendments thereto;

(4) "DROP account" means the notional account to which is credited the monthly DROP accrual;

(5) "DROP period" means the period of time that a member ~~irrevocably~~ elects to participate in the DROP pursuant to K.S.A. 74-4986n, and amendments thereto;

(6) "member" means a trooper, examiner or officer of the Kansas highway patrol or an agent of the Kansas bureau of investigation who is eligible to participate in the DROP and who elects to participate in the DROP as provided in this act;

(7) "monthly DROP accrual" means the amount equal to the monthly retirement benefit that would have been payable to the member had the member terminated service and retired on the day the member elected; and

(8) "system" means the Kansas police and firemen's retirement system.

(b) Unless specifically provided in this section or in this act, words and phrases used in this act ~~shall have the meanings ascribed to them~~ *mean the same* as provided under the provisions of K.S.A. 74-4901 et seq. and ~~K.S.A. 74-4951 et seq.~~, and amendments thereto.

Sec. 5. K.S.A. 74-4986n is hereby amended to read as follows: 74-4986n. (a) (1) A member who is appointed or employed prior to July 1, 1989, and who did not make an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service or at the completion of 32 years of credited service regardless of the age of such member.

(2) A member who is appointed or employed on or after July 1, 1989, or who made an election pursuant to K.S.A. 74-4955a, and amendments thereto, may elect to participate in the DROP by making

application in such form prescribed by the system at the attainment of age 55 and the completion of 20 years of credited service, age 50 and the completion of 25 years of credited service or age 60 with the completion of 15 years of credited service.

(b) A member shall indicate on the application the DROP period such member wishes to participate in the DROP. A member may elect to participate in the DROP for a minimum of three years and may not participate for more than five years from the effective date of the election to participate in the DROP. A member may participate in the DROP only once. ~~An election under this section is a one-time irrevocable election.~~ Once the application is accepted by the system, such member becomes a DROP participant. If a member fails to participate in the DROP for a minimum of three years, all of the member's interest credits shall be forfeited, unless such member retires due to disability as defined in K.S.A. 74-4952, and amendments thereto. A member who remains in active service at the expiration of the member's elected DROP period shall not be eligible for any additional interest credits. *A member who first elected a DROP period of less than five years may extend, with the employer's authorization, such DROP period upon making application to the system. The total aggregate DROP period for a member shall be consecutive and shall not exceed five years from the effective date of the initial election to participate in the DROP.*

(c) A member who makes an election under this section shall continue in the active service under the Kansas police and firemen's retirement system but shall not earn service credit under K.S.A. 74-4951 et seq., and amendments thereto, after the election's effective date. On and after the effective date of the member's election to participate, such member is ineligible to purchase service credit under K.S.A. 74-4901 et seq., and amendments thereto.

(d) Participation in the DROP by a member does not guarantee continued employment. During a member's participation in the DROP, employer contributions under K.S.A. 74-4967, and amendments thereto, and member contributions under K.S.A. 74-4965, and amendments thereto, shall be made to the retirement system. No member or employer contributions shall be applied to a member's DROP account.

Sec. 6. K.S.A. 74-49,123 is hereby amended to read as follows: 74-49,123. (a) This section applies to the Kansas public employees retirement system and to all other public retirement plans administered by the board of trustees.

(b) As used in this section:

(1) "Federal internal revenue code" means the federal internal revenue code of 1954 or 1986, as amended and as applicable to a governmental plan as in effect on July 1, 2008; and

(2) "retirement plan" includes the Kansas public employees retirement system and all other Kansas public retirement plans and benefit structures, which are administered by the board.

(c) In addition to the federal internal revenue code provisions otherwise noted in each retirement plan's law, and in order to satisfy the applicable requirements under the federal internal revenue code, the retirement plans shall be subject to the following provisions, notwithstanding any other provision of the retirement plan's law:

(1) The board shall distribute the corpus and income of the retirement plan to the members and their beneficiaries in accordance with the retirement plan's law. At no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus and income be used for, or diverted to, purposes other than the exclusive benefit of the members and their beneficiaries.

(2) Forfeitures arising from severance of employment, death or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement plan's law. However, forfeitures may be used to reduce an employer's contribution.

(3) All benefits paid from the retirement plan shall be distributed

in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the federal internal revenue code and the regulations under that section. Notwithstanding any other provision of these rules and regulations, effective on and after January 1, 2003, the retirement plan is subject to the following provisions:

(A) Benefits must begin by the required beginning date, which is the later of April 1 of the calendar year following the calendar year in which the member reaches ~~70¹/₂~~ 72 years of age, *or 70¹/₂ years of age if the member was born before July 1, 1949*, or April 1 of the calendar year following the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by April 1 of the calendar year following the calendar year in which such member reaches ~~70¹/₂~~ 72 years of age, *or 70¹/₂ years of age if the member was born before July 1, 1949*, or April 1 of the calendar year following the calendar year in which such member terminates employment, whichever is later, the board will begin distributing the benefit as required by this section.

(B) The member's entire interest must be distributed over the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. Death benefits must be distributed in accordance with section 401(a)(9) of the federal internal revenue code, including the incidental death benefit requirement in section 401(a)(9)(G) of the federal internal revenue code, and the regulations implementing that section.

(C) The life expectancy of a member, the member's spouse or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(D) If a member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death and no longer than the remaining period over which distributions commenced.

(E) If a member dies before required distribution of the member's benefits has begun, the member's entire interest must be either:

(i) In accordance with federal regulations, distributed over the life or life expectancy of the designated beneficiary, with the distributions beginning no later than December 31 of the calendar year immediately following the calendar year of the member's death; or

(ii) distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(F) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the federal internal revenue code.

(G) The death and disability benefits provided by a retirement plan are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the federal internal revenue code and treasury regulation 1.401-1(b)(1)(i).

(4) Distributions from the retirement plans may be made only upon retirement, separation from service, disability or death.

(5) The board or its designee may not:

(A) Determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of members or beneficiaries, in a manner that discriminates in favor of members who are considered officers, supervisors or highly compensated, as prohibited under section 401(a)(4) of the federal internal revenue code.

(6) Subject to the provisions of this subsection, benefits paid from, and employee contributions made to, the retirement plans shall not exceed the maximum benefits and the maximum annual additions, respectively, permissible under section 415 of the federal internal revenue code.

(A) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in section 415(b) of the federal

internal revenue code, subject to the applicable adjustments in that section. Beginning January 1, 1995, a participant may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the federal internal revenue code, subject to the applicable adjustments in section 415 of the federal internal revenue code.

(B) Notwithstanding any other provision of law to the contrary, the board may modify a request by a participant to make a contribution to the retirement plans if the amount of the contribution would exceed the limits under section 415(c) or 415(n) of the federal internal revenue code subject to the following:

(i) Where the retirement plan's law requires a lump-sum payment, for the purchase of service credit, the board may establish a periodic payment plan in order to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the federal internal revenue code.

(ii) If the board's option under clause (i) will not avoid a contribution in excess of the limits under section 415(c) or 415(n) of the federal internal revenue code, the board shall reduce or deny the contribution.

(C) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if an active member makes one or more contributions to purchase permissive service credit under a retirement plan, then the requirements of this section shall be treated as met only if:

(i) The requirements of section 415(b) of the federal internal revenue code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of such section; or

(ii) the requirements of section 415(c) of the federal internal revenue code are met, determined by treating all such contributions as annual additions for purposes of such section. For purposes of applying clause (i) a retirement plan shall not fail to meet the reduced limit under section 415(b)(2)(C) of the federal internal revenue code solely by reason of this subparagraph (C), and for purposes of applying clause (ii), a retirement plan shall not fail to meet the percentage limitation under section 415(c)(1)(B) of the federal internal revenue code solely by reason of this paragraph.

(iii) For purposes of this clause, the term "permissive service credit" means service credit:

(a) Specifically recognized by a retirement plan's law for purposes of calculating a member's benefit under that retirement plan;

(b) ~~which~~ *that* such member has not received under a retirement plan; and

(c) ~~which~~ *that* such member may receive under a retirement plan's law only by making a voluntary additional contribution, in an amount determined under the retirement plan's law and procedures established by the board, ~~which~~ *that* does not exceed the amount necessary to fund the benefit attributable to such service credit.

(iv) A retirement plan shall fail to meet the requirements of this clause if the retirement plan's law specifically provides for a purchase of nonqualified service purchase, and if:

(a) More than five years of nonqualified service credit are taken into account for purposes of this subclause; or

(b) any nonqualified service credit is taken into account under this subclause before the member has at least five years of participation under a retirement plan. For purposes of this subclause, effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means the same as provided in section 415(n)(3)(C) of the federal internal revenue code.

(v) In the case of a trustee-to-trustee transfer after December 31, 2001, to which section 403(b)(13)(A) or 457(e)(17)(A) of the federal internal revenue code applies, without regard to whether the transfer is made between plans maintained by the same employer:

(a) The limitations of clause (iv) shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) the distribution rules applicable under federal law to a retirement plan shall apply to such amounts and any benefits attributable to such amounts.

(vi) For an eligible member, the limitation of section 415(c)(1) of the federal internal revenue code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the statute as in effect on August 5, 1997. For purposes of this clause, an eligible member is an individual who first became a member in the retirement plan before January 1, 1998.

(D) Subject to approval by the internal revenue service, the board shall maintain a qualified governmental excess benefit arrangement under section 415(m) of the federal internal revenue code. The board shall establish the necessary and appropriate procedures for the administration of such benefit arrangement under the federal internal revenue code. The amount of any annual benefit that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be paid from this benefit arrangement. The amount of any contribution that would exceed the limitations imposed by section 415 of the federal internal revenue code shall be credited to this benefit arrangement. The qualified excess benefit arrangement shall be a separate portion of the retirement plan. The qualified excess benefit arrangement is subject to the following requirements:

(i) The benefit arrangement shall be maintained solely for the purpose of providing to participants in the retirement plans that part of the participant's annual benefit otherwise payable under the terms of the act that exceeds the limitations on benefits imposed by section 415 of the federal internal revenue code; and

(ii) participants do not have an election, directly or indirectly, to defer compensation to the excess benefit arrangement.

(E) For purposes of applying these limits only and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulation section 1.415(c)-2. Specifically, compensation shall be defined as wages within the meaning of section 3401(a) of the federal internal revenue code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3) and 6052 of the federal internal revenue code. Compensation shall be determined without regard to any rules under section 3401(a) of the federal internal revenue code that limit the remuneration included in wages based on the nature or location of the employment or the services performed, such as the exception for agricultural labor in section 3401(a)(2) of the federal internal revenue code.

(i) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation but for an election under sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b) of the federal internal revenue code. For limitation years beginning after December 30, 2000, compensation shall also include any elective amounts that are not includable in the gross income of the employee by reason of section 132(f)(4) of the federal internal revenue code.

(ii) The definition of compensation shall exclude employee contributions picked up under section 414(h)(2) of the federal internal revenue code.

(iii) For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of two and a half months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

(a) The payment is regular compensation for services during the employee's regular working hours or compensation for services outside the employee's regular working hours, such as overtime or shift differential, commissions, bonuses or other similar payments, and absent a severance from employment, the payments would have been paid to the employee while the employee continues in employment with the employer;

(b) the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(c) for limitation years beginning on and after January 1, 2012, the payment is made pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includable in the member's gross income.

(iv) Any payments not described in clause (iii) are not considered compensation if paid after severance from employment, even if they are paid within two and a half months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service, within the meaning of section 414(u)(1) of the federal internal revenue code, to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(v) An employee who is in qualified military service, within the meaning of section 414(u)(1) of the federal internal revenue code, shall be treated as receiving compensation from the employer during such period of qualified military service equal to: (a) The compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or (b) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the ~~twelve-month~~ 12-month period immediately preceding the qualified military service, or if shorter, the period of employment immediately preceding the qualified military service.

(vi) Back pay, within the meaning of treasury regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(7) On and after January 1, 2009, for purposes of applying the limits under section 415(b) of the federal internal revenue code, the following shall apply:

(A) A member's applicable limit shall be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

(B) to the extent the member's annual benefit equals or exceeds such limit, the member shall no longer be eligible for cost-of-living increases until such time as the benefit plus the accumulated increases are less than such limit;

(C) thereafter, in any subsequent limitation year, the member's annual benefit including any automatic cost-of-living increase applicable shall be tested under the then applicable benefit limit including any adjustment to the dollar limit under section 415(b)(1)(A) or 415(d) of the federal internal revenue code and the regulations thereunder; and

(D) in no event shall a member's annual benefit payable from a retirement plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the federal internal revenue code and the

regulations thereunder. If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity, then the preceding sentence is applied by reducing the limit under section 415(b) of the federal internal revenue code applicable at the annuity starting date to an actuarially equivalent amount determined using the assumptions specified in treasury regulation section 1.415(b)-1(c)(2)(ii) that take into account the death benefits under the form of benefit. This subsection applies to distributions made on and after January 1, 1993. A distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a transfer made from the retirement system.

(i) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (a) Any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life or the life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary or for a specified period of 10 years or more; (b) any distribution to the extent such distribution is required under section 401(a)(9) of the federal internal revenue code; (c) the portion of any distribution that is not includable in gross income; and (d) any other distribution that is reasonably expected to total less than \$200 during the year. Effective January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the federal internal revenue code, or to a qualified defined contribution plan described in section 401(a) of the federal internal revenue code or to a qualified plan described in section 403(a) of the federal internal revenue code, that agrees to separately account for amounts so transferred and earnings on such amounts, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable, or on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the federal internal revenue code or to an annuity contract described in section 403(b) of the federal internal revenue code, that agrees to separately account for amounts so transferred and earnings thereon, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not so includable.

(ii) An eligible retirement plan is any of the following that accepts the distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the federal internal revenue code;

(b) an individual retirement annuity described in section 408(b) of the federal internal revenue code;

(c) an annuity plan described in section 403(a) of the federal internal revenue code;

(d) a qualified trust described in section 401(a) of the federal internal revenue code;

(e) effective January 1, 2002, an annuity contract described in section 403(b) of the federal internal revenue code;

(f) effective January 1, 2002, a plan eligible under section 457(b) of the federal internal revenue code that is maintained by a state, political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state that agrees to separately account for amounts transferred into the plan from a retirement plan; or

(g) effective January 1, 2008, a roth IRA described in section 408(A) of the federal internal revenue code.

(iii) Effective January 1, 2002, the definition of eligible rollover distribution also includes a distribution to a surviving spouse, or to a spouse or former spouse who is an alternate payee under a domestic

relations order, as defined in section 414(p) of the federal internal revenue code.

(iv) A distributee includes an employee or former employee. It also includes the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the federal internal revenue code. Effective July 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the federal internal revenue code. However, a nonspouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.

(v) A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.

(8) Notwithstanding any law to the contrary, the board may accept a direct or indirect eligible rollover distributions for the purpose of the purchase of service credit. In addition, the board may accept a direct trustee to trustee transfer from a deferred compensation plan under section 457(b) of the federal internal revenue code or a tax sheltered annuity under section 403(b) of the federal internal revenue code for: (A) The purchase of permissive service credit, as defined under section 415(n)(3)(A) of the federal internal revenue code; or (B) a repayment to which section 415 of the federal internal revenue code does not apply pursuant to section 415(k)(3) of the federal internal revenue code. Any such transfer shall be allowed as provided in this subsection to the extent permitted by law, subject to any conditions, proofs or acceptance established or required by the board or the board's designee.

(9) Where required by the act, an employer shall pick up and pay contributions that would otherwise be payable by members of a retirement plan in accordance with section 414(h)(2) of the federal internal revenue code as follows:

(A) The contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee;

(B) the employee must not have been given the option of receiving the amounts directly instead of having them paid to the retirement plan; and

(C) the pickup shall apply to amounts that a member elects to contribute to receive credit for prior or participating service if the election is irrevocable and applies to amounts contributed before retirement.

(10) (A) Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the federal internal revenue code and the uniformed services employment and reemployment rights act of 1994.

(B) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in chapter 43 of title 38, United States code, to the extent required by section 401(a)(37) of the federal internal revenue code, survivors of a member in the system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed. A deceased member's period of qualified military service must be counted for vesting purposes.

(C) Effective with respect to deaths or disabilities, or both, occurring on or after January 1, 2007, while a member is performing qualified military service, as defined in chapter 43 of title 38, United States code, to the extent permitted by section 414(u)(9) of the federal internal revenue code, for the benefit accrual purposes and in the case of death, for vesting purposes, the member will be treated as having

earned years of service for the period of qualified military service, having returned to employment on the day before the death or disability, or both, and then having terminated on the date of death or disability. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(D) Beginning January 1, 2009, to the extent required by section 414(u)(12) of the federal internal revenue code, an individual receiving differential wage payments, as defined under section 3401(h)(2) of the federal internal revenue code, from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the federal internal revenue code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(11) Upon the complete or partial termination of a retirement plan, the rights of members to benefits accrued to the date of termination, to the extent funded, or to the amounts in their accounts are nonforfeitable, and amounts in their accounts may be distributed to them.

(d) The plan year for the retirement plan begins on July 1.

(e) The limitation year for purposes of section 415 of the federal internal revenue code is the calendar year.

(f) The board may not engage in a transaction prohibited by section 503(b) of the federal internal revenue code.

(g) (1) For purposes of determining an "actuarial equivalent" or of an "actuarial computation" for members hired prior to July 1, 2009, the board shall use the following:

(A) The applicable mortality table is specified in revenue ruling 2001-62 or revenue ruling 2007-67, as applicable; and

(B) the applicable interest factor is the actuarially assumed rate of return established by the board.

(2) For purposes of determining an "actuarial equivalent" or an "actuarial computation" for members hired on or after July 1, 2009, the board shall use the following:

(A) The applicable mortality table is the $^{50}/_{50}$ male/female blend of the RP 2000 health annuitant mortality table, projected to 2025; and

(B) the applicable interest factor is the actuarially assumed rate of return established by the board.

(3) For converting amounts payable under the partial lump sum option, the board shall use the following:

(A) The applicable mortality table is a $^{50}/_{50}$ male/female blend of the 1983 group annuity mortality table; and

(B) the applicable interest factor is the actuarially assumed rate of return established by the board.

(4) For benefit testing under section 415(b) of the federal internal revenue code, the factors required by treasury regulations shall be used. The applicable mortality table is specified in revenue ruling 2001-62 for years prior to January 1, 2009, and notice 2008-85 for years after December 31, 2008.

Sec. 7. K.S.A. 74-4908, 74-4908a, 74-4927, 74-4986n and 74-49,123 and K.S.A. 2020 Supp. 74-4986l are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.